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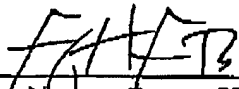
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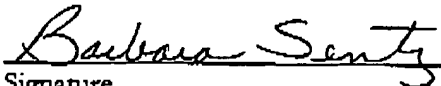
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Title of Document Transmitted:	TRANSMITTAL SHEETS AND BRIEF OF APPELLANT, INCLUDING EVIDENCE APPENDIX AND RELATED PROCEEDINGS APPENDIX.
Applicant:	George Robert Hood
Serial No.:	09/845,851
Filed:	April 30, 2001
Group Art Unit:	3627
Title:	SHAREHOLDER VALUE ADD FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM
Our Ref. No.:	9511

Please charge all fees to Deposit Account No. 14-0225 of NCR Corporation, the assignee of the present application.

By: 
Name: George H. Gates
Reg. No.: 33,500

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.


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November 11, 2005
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GHG/bjs

G&C 30145.421-US-01

Due Date: November 14, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: George Hood
Serial No.: 09/845,851
Filed: April 30, 2001
Title: SHAREHOLDER VALUE ADD FOR FINANCIAL PROCESSING IN A RELATIONAL
DATABASE MANAGEMENT SYSTEM

Examiner: Andrew J. Rudy
Group Art Unit: 3627
Docket: 9511

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CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8

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By: 

Name: George H. Gates

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

We are transmitting herewith the attached:

- ☒ Transmittal sheet, in duplicate, containing a Certificate of Mailing or Transmission under 37 CFR 1.8.
- ☒ Brief of Appellant, including Evidence Appendix and Related Proceedings Appendix.
- ☒ Charge the Fee for the Brief of Appellant in the amount of \$500.00 to the Deposit Account.

Please consider this a **PETITION FOR EXTENSION OF TIME** for a sufficient number of months to enter these papers, if appropriate.

Please charge all fees to Deposit Account No. 14-0225 of NCR Corporation (the assignee of the present application). A duplicate of this paper is enclosed.

Customer Number 22462**GATES & COOPER LLP**

Howard Hughes Center

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By: 

Name: George H. Gates

Reg. No.: 33,500

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Due Date: November 14, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	
)	
Inventor: George Hood)	Examiner: Andrew J. Rudy
)	
Serial #: 09/845,851)	Group Art Unit: 3627
)	
Filed: April 30, 2001)	Appeal No.: _____
)	
Title: SHAREHOLDER VALUE ADD FOR)	
FINANCIAL PROCESSING IN A)	
RELATIONAL DATABASE)	
MANAGEMENT SYSTEM)	

BRIEF OF APPELLANT

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 CFR §41.37, Appellant's attorney hereby submits the Brief of Appellant on appeal from the final rejection in the above-identified application as set forth in the Office Action dated June 14, 2005.

Please charge the amount of \$500 to cover the required fee for filing this Appeal Brief as set forth under 37 CFR §41.37(a)(2) and 37 CFR §41.20(b)(2) to Deposit Account No. 14-0225 of NCR Corporation, the assignee of the present application.

I. REAL PARTY IN INTEREST

The real party in interest is NCR Corporation, the assignee of the present application.

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II. RELATED APPEALS AND INTERFERENCES

There are related appeals in the following co-pending and commonly-assigned patent applications:

Application Serial No. 10/016,452, filed on December 10, 2001, by Brian J. Wasserman et al., entitled DYNAMIC EVENT SELECTION FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9618 (30145.419US01);

Application Serial No. 10/016,779, filed on December 10, 2001, by Brian J. Wasserman et al., entitled PARALLEL SELECTION PROCESSING FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9620 (30145.416US01);

Application Serial No. 09/943,059, filed on August 21, 2001, by Paul H. Phibbs, Jr., entitled ALLOCATED BALANCES IN A NET INTEREST REVENUE IMPLEMENTATION FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9512 (30145.405US01);

Application Serial No. 09/608,355, filed on June 29, 2000, by George R. Hood et al., entitled ADVANCED AND BREAKTHROUGH NET INTEREST REVENUE IMPLEMENTATION FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9006 (30145.401US01);

Application Serial No. 09/610,646, filed on June 29, 2000, by George R. Hood et al., entitled BASIC AND INTERMEDIATE NET INTEREST REVENUE IMPLEMENTATIONS FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 8980 (30145.397US01);

Application Serial No. 09/608,682, filed on June 29, 2000, by George R. Hood, entitled RISK PROVISION IMPLEMENTATION FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9015 (30145.392US01);

Application Serial No. 09/608,681, filed on June 29, 2000, by George R. Hood et al., entitled OTHER REVENUE IMPLEMENTATION FOR FINANCIAL PROCESSING IN A

RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9015 (30145.391US01);

Application Serial No. 09/943,060, filed on August 30, 2001, by Paul H. Phibbs, Jr., entitled CAPITAL ALLOCATION IN A NET INTEREST REVENUE IMPLEMENTATION FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9391 (30145.404USU1);

Application Serial No. 09/845,461, filed on April 30, 2001, by George Robert Hood, entitled TAX ADJUSTMENT FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9522 (30145.415US01); and

Application Serial No. 09/845,924, filed on April 30, 2001, by George R. Hood, entitled AMORTIZATION FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM, attorney's docket number 9435 (30145.422US01).

III. STATUS OF CLAIMS

Claims 1-6 are pending in the application.

Claims 1-6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Price et al., "College Accounting, Seventh Edition," (Price) in view of Official Notice.

Claims 1-6 are being appealed.

IV. STATUS OF AMENDMENTS

No amendments have been made subsequent to the final Office Action.

V. SUMMARY OF THE INVENTION

Appellant's independent claims 1, 3 and 5 are generally directed to a method, system and article of manufacture for performing financial processing in a computer.

Independent claim 1 recites a method of performing financial processing in a computer (100). (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 6, line 18 through page 7, line 9 referring to 100, 102, 104 and 106 in FIG. 1; and page 14, line 20

through page 15, line 20 referring to 314 in FIG. 3.) The method includes accessing account, event and organization attributes (202, 204, 206) from a database (106) accessible by the computer (100), wherein: (1) the account attributes (202) comprise data about accounts being measured, (2) the event attributes (204) comprise data about account-related transactions, and (3) the organization attributes (206) comprise data about the organization's financial status. (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 8, lines 4-26 referring to 202, 204 and 206 in FIG. 2; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.) The method also includes performing one or more profitability calculations (200) in the computer (100) using the account, event and organization attributes (202, 204, 206) accessed from the database (106), as well as one or more profit factors (208) and one or more rules (210), wherein the profitability calculations (200) include:

$$\begin{aligned} \text{Profit}(a_i) &= \text{Net Interest Revenue (NIR)}(a_i) \\ &+ \text{Other Revenue (OR)}(a_i) \\ &- \text{Direct Expense (DE)}(a_i) \\ &- \text{Indirect Expense (IE)}(a_i) \\ &- \text{Risk Provision (RP)}(a_i) \end{aligned}$$

for an account a_i . (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 8, line 4 through page 12, line 12 referring to 200, 202, 204, 206, 208, 210, 212 and 214 in FIG. 2; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.) In addition, the method includes performing one or more earnings calculations (314) in the computer (100) using results (214) from the profitability calculations (200), as well as shareholder value add attributes and tax adjustment attributes accessed from the database (106), wherein the earnings calculations (314) comprise:

$$E(a_i) = [\text{Profit}(a_i) - \text{SVA}(a_i)] * (1 - \text{EffectiveTaxRate})$$

wherein:

$\text{EffectiveTaxRate} = (1 - \text{tax rate}_2) * (\text{tax rate}_1) + \text{tax rate}_2$, tax rate_1 and tax rate_2 are effective rates, tax rate_2 is deducted from income, and tax rate_1 is not deducted from income,

$$\text{SVA}(a_i) = \text{Risk Adjusted Hurdle Rate} * \text{Allocated Capital},$$

$$\text{Risk Adjusted Hurdle Rate} = \alpha + \beta(a_i) * x,$$

α is a risk free rate on capital,

x is a market premium of a Financial Institution's capital relative to the market, and

$\beta(a_i)$ is a function of a cohort of accounts in which a_i is a member.

(See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 12, line 27 through page 13, line 22; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.)

Independent claim 3 recites a system for financial processing, wherein the system includes a computer (100) and logic performed by the computer (100). (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 6, line 18 through page 7, line 9 referring to 100, 102, 104 and 106 in FIG. 1; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.) The logic includes accessing account, event and organization attributes (202, 204, 206) from a database (106) accessible by the computer (100), wherein: (1) the account attributes (202) comprise data about accounts being measured, (2) the event attributes (204) comprise data about account-related transactions, and (3) the organization attributes (206) comprise data about the organization's financial status. (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 8, lines 4-26 referring to 202, 204 and 206 in FIG. 2; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.) The logic also includes performing one or more profitability calculations (200) in the computer (100) using the account, event and organization attributes (202, 204, 206) accessed from the database (106), as well as one or more profit factors (208) and one or more rules (210), wherein the profitability calculations (200) include:

$$\begin{aligned} \text{Profit } (a_i) &= \text{Net Interest Revenue (NIR)} (a_i) \\ &+ \text{Other Revenue (OR)} (a_i) \\ &- \text{Direct Expense (DE)} (a_i) \\ &- \text{Indirect Expense (IE)} (a_i) \\ &- \text{Risk Provision (RP)} (a_i) \end{aligned}$$

for an account a_i . (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 8, line 4 through page 12, line 12 referring to 200, 202, 204, 206, 208, 210, 212 and 214 in FIG. 2; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.) In addition,

the method includes performing one or more earnings calculations (314) in the computer (100) using results (214) from the profitability calculations (200), as well as shareholder value add attributes and tax adjustment attributes accessed from the database (106), wherein the earnings calculations (314) comprise:

$$E(a_i) = [\text{Profit}(a_i) - \text{SVA}(a_i)] * (1 - \text{EffectiveTaxRate})$$

wherein:

$\text{EffectiveTaxRate} = (1 - \text{tax rate}_2) * (\text{tax rate}_1) + \text{tax rate}_2$, tax rate_1 and tax rate_2 are effective rates, tax rate_2 is deducted from income, and tax rate_1 is not deducted from income,

$$\text{SVA}(a_i) = \text{Risk Adjusted Hurdle Rate} * \text{Allocated Capital},$$

$$\text{Risk Adjusted Hurdle Rate} = \alpha + \beta(a_i) * x,$$

α is a risk free rate on capital,

x is a market premium of a Financial Institution's capital relative to the market, and

$\beta(a_i)$ is a function of a cohort of accounts in which a_i is a member.

(See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 12, line 27 through page 13, line 22; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.)

Independent claim 5 is directed to an article of manufacture embodying logic for performing financial processing in a computer (100). (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 6, line 18 through page 7, line 9 referring to 100, 102, 104 and 106 in FIG. 1; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.) The logic includes accessing account, event and organization attributes (202, 204, 206) from a database (106) accessible by the computer (100), wherein: (1) the account attributes (202) comprise data about accounts being measured, (2) the event attributes (204) comprise data about account-related transactions, and (3) the organization attributes (206) comprise data about the organization's financial status. (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 8, lines 4-26 referring to 202, 204 and 206 in FIG. 2; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.) The logic also includes performing one or more profitability calculations (200) in the computer (100) using the account, event and organization attributes (202, 204, 206) accessed from the database (106), as well as one or more

profit factors (208) and one or more rules (210), wherein the profitability calculations (200) include:

$$\begin{aligned} \text{Profit (a}_i\text{)} &= \text{Net Interest Revenue (NIR) (a}_i\text{)} \\ &+ \text{Other Revenue (OR) (a}_i\text{)} \\ &- \text{Direct Expense (DE) (a}_i\text{)} \\ &- \text{Indirect Expense (IE) (a}_i\text{)} \\ &- \text{Risk Provision (RP) (a}_i\text{)} \end{aligned}$$

for an account a_i . (See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 8, line 4 through page 12, line 12 referring to 200, 202, 204, 206, 208, 210, 212 and 214 in FIG. 2; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.) In addition, the method includes performing one or more earnings calculations (314) in the computer (100) using results (214) from the profitability calculations (200), as well as shareholder value add attributes and tax adjustment attributes accessed from the database (106), wherein the earnings calculations (314) comprise:

$$E(a_i) = [\text{Profit}(a_i) - \text{SVA}(a_i)] * (1 - \text{EffectiveTaxRate})$$

wherein:

$\text{EffectiveTaxRate} = (1 - \text{tax rate}_2) * (\text{tax rate}_1) + \text{tax rate}_2$, tax rate_1 and tax rate_2 are effective rates, tax rate_2 is deducted from income, and tax rate_1 is not deducted from income,

$$\text{SVA}(a_i) = \text{Risk Adjusted Hurdle Rate} * \text{Allocated Capital},$$

$$\text{Risk Adjusted Hurdle Rate} = \alpha + \beta(a_i) * x,$$

α is a risk free rate on capital,

x is a market premium of a Financial Institution's capital relative to the market, and

$\beta(a_i)$ is a function of a cohort of accounts in which a_i is a member.

(See, page 3, line 2 through page 4, line 7; page 4, line 26 through page 6, line 16; page 12, line 27 through page 13, line 22; and page 14, line 20 through page 15, line 20 referring to 314 in FIG. 3.)

VI. GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-6 are obvious under 35 U.S.C. §103(a) over Price et al., "College Accounting, Seventh Edition," (Price) in view of Official Notice.

VII. ARGUMENTS

A. The Office Action Rejections

In item (2) of the Office Action, claims 1-6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Price et al., "College Accounting, Seventh Edition," (Price) in view of Official Notice.

Appellant's attorney respectfully traverses these rejections.

B. Appellant's Independent Claims

Independent claims 1, 3, and 5 are generally directed to a method, system and article of manufacture for performing financial processing in a computer. Claim 1 is representative, and comprises the steps of:

(a) accessing account, event and organization attributes from a database accessible by the computer, wherein: (1) the account attributes comprise data about accounts being measured, (2) the event attributes comprise data about account-related transactions, and (3) the organization attributes comprise data about the organization's financial status;

(b) performing one or more profitability calculations in the computer using the account, event and organization attributes accessed from the database, as well as one or more profit factors and one or more rules, wherein the profitability calculations comprise:

$$\begin{aligned}
 \text{Profit (a}_i\text{)} &= \text{Net Interest Revenue (NIR) (a}_i\text{)} \\
 &+ \text{Other Revenue (OR) (a}_i\text{)} \\
 &- \text{Direct Expense (DE) (a}_i\text{)} \\
 &- \text{Indirect Expense (IE) (a}_i\text{)} \\
 &- \text{Risk Provision (RP) (a}_i\text{)}
 \end{aligned}$$

for an account a_i , and

(c) performing one or more earnings calculations in the computer using results from the profitability calculations, as well as shareholder value add attributes and tax adjustment attributes accessed from the database, wherein the earnings calculations comprise:

$$E(a_i) = [\text{Profit}(a_i) - \text{SVA}(a_i)] * (1 - \text{EffectiveTaxRate})$$

wherein:

$\text{EffectiveTaxRate} = (1 - \text{tax rate}_2) * (\text{tax rate}_1) + \text{tax rate}_2$, tax rate_1 and tax rate_2 are effective rates, tax rate_2 is deducted from income, and tax rate_1 is not deducted from income,

$\text{SVA}(a_i) = \text{Risk Adjusted Hurdle Rate} * \text{Allocated Capital}$,

$\text{Risk Adjusted Hurdle Rate} = \alpha + \beta(a_i) * x$,

α is a risk free rate on capital,

x is a market premium of a Financial Institution's capital relative to the market, and

$\beta(a_i)$ is a function of a cohort of accounts in which a_i is a member.

C. The Price Reference

Price is a college accounting textbook that describes accounting concepts and principles. The portions cited describe analyzing business transactions including the accounting cycle, accounting for assets and liabilities including accounts receivable and uncollectible accounts, and responsibility and cost accounting including departmentalized profit and cost centers.

D. Arguments Directed To The First Grounds for Rejection: Whether Claims 1-6 Are Obvious Under 35 U.S.C. §103(a) Over Price In View Of Official Notice.

1. Claims 1, 3 and 5

The Appellant's invention, as recited in independent claims 1, 3 and 5 is patentable over the references, because it contains limitations not taught by the references. Specifically, the references do not teach or suggest the specific combination of limitations found in Appellant's claims.

The Office Action, however, asserts the following:

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Official Notice.

Applicant is directed towards the previous Office Action, paragraph 4, regarding Price, in view of Official Notice. Applicant's March 22, 2005 REMARKS have been reviewed, but are not convincing. Applicant's profitability calculations are common knowledge variances for defining earnings calculations.

Applicant's attempt at traversing the Official Notice findings as stated in the previous Office Action mailed November 22, 2004 is inadequate. Adequate traversal is a two step process. First, Applicant must state their traversal on the record. Second, and in accordance with 37 C.F.R. § 1.111(b) which requires Applicant to specifically point out the supposed errors in the Office Action, Applicant must state why the Office Action statements are not to be considered common knowledge or well known in the art.

In this application, Applicant has clearly not met step (1) as not traversal of Official Notice has been taken. Second, Applicant has failed step (2) since they have failed to argue why the Official Notice statements are not to be considered common knowledge or well known in the art. Because Applicant's traversal is inadequate, the Official Notice, e.g. common knowledge, statements are taken to be admitted as prior art. See, MPEP § 2144.03

The previous Office Action asserted the following:

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price et al. "College Accounting, Seventh Edition" (hereafter "Price")

Price discloses, e.g. pgs 28-41, 529, 531, 966-982 (Fig. 27-5), a method measuring profit based on the factors of net interest revenue, other revenues (Fig. 27-5, line 4, "Operating Revenues"), direct expenses (Fig. 27-5, line 22, "Direct Expenses"), indirect expenses (Fig. 27-5, line 30, "Indirect Expenses"), and risk (Fig. 27-5, line 6, "Less Sales Returns and Allowances"), all set up to take advantage of flexible business rules.

Official Notice is taken that performing financial processing using computer software is common knowledge in the art.

To have provided business rules to calculate known variations of one of the factors, e.g., earning factors, would have been obvious to one of ordinary skill in the art. To have provided a method of performing financial processing for an account using software for a computer measuring profit based on the factors of net interest revenue, other revenues, direct expenses, indirect expenses and risk, to calculate known variations of one of the factors, e.g. earning factors, would have been obvious to one of ordinary skill in the art. Doing such would incorporate common knowledge data along with common knowledge software.

Applicant's August 13, 2004 and February 11, 2004 REMARKS have been reviewed, but are not moot in light of the new rejection. In short, Applicant's profitability calculations are common knowledge variance for defining total income less total expenses. The account, event and organization attributes, e.g., future losses, direct and indirect expenses, claimed have been

common knowledge criteria used within the business community for a period of time far exceeding Applicant's filing date. To have incorporated such common knowledge in the profitability calculations of Price, as modified by Official Notice, would have been obvious to one of ordinary skill in the art.

Appellant's attorney respectfully disagrees.

Appellant's attorney does not traverse Official Notice, but does traverse the assertion that Price when combined with Official Notice teaches Appellant's claims. Instead, Price merely provides a college accounting textbook that describes general accounting concepts and principles, while Official Notice merely states that performing financial processing using computer software is common knowledge in the art.

According to the Office Action, to have provided a method of performing financial processing for an account using software for a computer measuring profit based on the factors of net interest revenue, other revenues, direct expenses, indirect expenses and risk, to calculate known variations of one of the factors, e.g. earnings factors, would have been obvious to one of ordinary skill in the art, and doing such would incorporate common knowledge data along with common knowledge software.

But, such an assertion is unsupported by the evidence, and merely comprises hindsight by the Office Action. Under M.P.E.P. §2141.01, "[t]he references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention."

For example, the combination of Price and Official Notice does not teach or suggest Appellant's specific claim limitations directed to "performing one or more earnings calculations in the computer using results from the profitability calculations, as well as shareholder value add attributes and tax adjustment attributes accessed from the database, wherein the earnings calculations comprise:

$$E(a_i) = [\text{Profit}(a_i) - \text{SVA}(a_i)] * (1 - \text{EffectiveTaxRate})$$

wherein:

$\text{EffectiveTaxRate} = (1 - \text{tax rate}_2) * (\text{tax rate}_1) + \text{tax rate}_2$, tax rate_1 and tax rate_2 are effective rates, tax rate_2 is deducted from income, and tax rate_1 is not deducted from income,

$$\text{SVA}(a_i) = \text{Risk Adjusted Hurdle Rate} * \text{Allocated Capital},$$

$$\text{Risk Adjusted Hurdle Rate} = \alpha + \beta(a_i) * x,$$

α is a risk free rate on capital,

x is a market premium of a Financial Institution's capital relative to the market, and

$\beta(a_i)$ is a function of a cohort of accounts in which a_i is a member."

Instead, the Office Action only makes a general reference to "earning factors" without citing any specific location within Price as teaching the limitations of Appellant's claims, or explaining how the mere computer-implemented financial processing of Official Notice would accomplish these limitations. Neither Price nor Official Notice teaches or suggests the limitations, and thus the combination does not teach or suggest the limitations.

Under M.P.E.P. §§ 2142 and 2143.03 "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)." This has not been done in the instant application.

The Office Action rejections of the dependent claims are even more cursory than the Office Action rejections of the independent claims. The dependent claims remain unaddressed by the Office Action, except for a general assertion of unpatentability.

Thus, Appellant's attorney submits that the independent claims are allowable over Price and Official Notice. Further, the dependent claims are submitted to be allowable over Price and Official Notice in the same manner, because they are dependent on independent claims, and because they contain all the limitations of the independent claims. In addition, the dependent claims recite additional novel elements not shown by Price and Official Notice.

2. Claims 2, 4 and 6

Claims 2, 4 and 6 recite performing one or more total earnings calculations in the computer using results from the earnings calculations, wherein the total earnings calculations comprise:

$$\text{Total Earnings} = \sum_i [\text{Earnings}(a_i)]$$

for all accounts a_i .

The Office Action rejects these claims only generally, i.e., on the same basis as the independent claims, without citing any specific location within the reference as teaching these limitations. Appellant's attorney disagrees with this analysis, and submits that nowhere does the reference teach or suggest the limitations of these claims.

VIII. CONCLUSION

In light of the above arguments, Appellant's attorney respectfully submits that the cited references do not anticipate nor render obvious the claimed invention. More specifically, Appellant's claims recite novel physical features which patentably distinguish over any and all references under 35 U.S.C. §§ 102 and 103.


As a result, a decision by the Board of Patent Appeals and Interferences reversing the Examiner and directing allowance of the pending claims in the subject application is respectfully solicited.

Respectfully submitted,

GATES & COOPER LLP
Attorneys for Appellant

Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, California 90045
(310) 641-8797

Date: November 11, 2005

By: 
Name: George H. Gates
Reg. No.: 33,500

GHG/

CLAIMS APPENDIX

1. (ORIGINAL) A method of performing financial processing in a computer, comprising:

(a) accessing account, event and organization attributes from a database accessible by the computer, wherein: (1) the account attributes comprise data about accounts being measured, (2) the event attributes comprise data about account-related transactions, and (3) the organization attributes comprise data about the organization's financial status;

(b) performing one or more profitability calculations in the computer using the account, event and organization attributes accessed from the database, as well as one or more profit factors and one or more rules, wherein the profitability calculations comprise:

$$\begin{aligned}
 \text{Profit } (a_i) &= \text{Net Interest Revenue (NIR)} (a_i) \\
 &+ \text{Other Revenue (OR)} (a_i) \\
 &- \text{Direct Expense (DE)} (a_i) \\
 &- \text{Indirect Expense (IE)} (a_i) \\
 &- \text{Risk Provision (RP)} (a_i)
 \end{aligned}$$

for an account a_i , and

(c) performing one or more earnings calculations in the computer using results from the profitability calculations, as well as shareholder value add attributes and tax adjustment attributes accessed from the database, wherein the earnings calculations comprise:

$$E(a_i) = [\text{Profit}(a_i) - \text{SVA}(a_i)] * (1 - \text{EffectiveTaxRate})$$

wherein:

$\text{EffectiveTaxRate} = (1 - \text{tax rate}_2) * (\text{tax rate}_1) + \text{tax rate}_2$, tax rate_1 and tax rate_2 are effective rates, tax rate_2 is deducted from income, and tax rate_1 is not deducted from income,

$$\text{SVA}(a_i) = \text{Risk Adjusted Hurdle Rate} * \text{Allocated Capital},$$

$$\text{Risk Adjusted Hurdle Rate} = \alpha + \beta(a_i) * x,$$

α is a risk free rate on capital,

x is a market premium of a Financial Institution's capital relative to the market, and

$\beta(a_i)$ is a function of a cohort of accounts in which a_i is a member.

2. (ORIGINAL) The method of claim 1, further comprising performing one or more total earnings calculations in the computer using results from the earnings calculations, wherein the total earnings calculations comprise:

$$\text{Total Earnings} = \sum_i [\text{Earnings}(a_i)]$$

for all accounts a_i .

3. (ORIGINAL) A system for financial processing, comprising:
a computer;
logic, performed by the computer, for:

(a) accessing account, event and organization attributes from a database accessible by the computer, wherein: (1) the account attributes comprise data about accounts being measured, (2) the event attributes comprise data about account-related transactions, and (3) the organization attributes comprise data about the organization's financial status;

(b) performing one or more profitability calculations in the computer using the account, event and organization attributes accessed from the database, as well as one or more profit factors and one or more rules, wherein the profitability calculations comprise:

$$\begin{aligned} \text{Profit}(a_i) &= \text{Net Interest Revenue (NIR)}(a_i) \\ &+ \text{Other Revenue (OR)}(a_i) \\ &- \text{Direct Expense (DE)}(a_i) \\ &- \text{Indirect Expense (IE)}(a_i) \\ &- \text{Risk Provision (RP)}(a_i) \end{aligned}$$

for an account a_i ,

(c) performing one or more earnings calculations in the computer using results from the profitability calculations, as well as shareholder value add attributes and tax adjustment attributes accessed from the database, wherein the earnings calculations comprise:

$$E(a_i) = [\text{Profit}(a_i) - \text{SVA}(a_i)] * (1 - \text{EffectiveTaxRate})$$

wherein:

$\text{EffectiveTaxRate} = (1 - \text{tax rate}_2) * (\text{tax rate}_1) + \text{tax rate}_2$, tax rate_1 and tax rate_2 are effective rates, tax rate_2 is deducted from income, and tax rate_1 is not deducted from income,

$\text{SVA}(a_i) = \text{Risk Adjusted Hurdle Rate} * \text{Allocated Capital}$,

$\text{Risk Adjusted Hurdle Rate} = \alpha + \beta(a_i) * x$,

α is a risk free rate on capital,

x is a market premium of a Financial Institution's capital relative to the market,

and

$\beta(a_i)$ is a function of a cohort of accounts in which a_i is a member.

4. (ORIGINAL) The system of claim 3, further comprising logic for performing one or more total earnings calculations in the computer using results from the earnings calculations, wherein the total earnings calculations comprise:

$$\text{Total Earnings} = \sum_i [\text{Earnings}(a_i)]$$

for all accounts a_i .

5. (ORIGINAL) An article of manufacture embodying logic for performing financial processing in a computer, comprising:

(a) accessing account, event and organization attributes from a database accessible by the computer, wherein: (1) the account attributes comprise data about accounts being measured, (2) the event attributes comprise data about account-related transactions, and (3) the organization attributes comprise data about the organization's financial status;

(b) performing one or more profitability calculations in the computer using the account, event and organization attributes accessed from the database, as well as one or more profit factors and one or more rules, wherein the profitability calculations comprise:

$$\begin{aligned} \text{Profit}(a_i) &= \text{Net Interest Revenue (NIR)}(a_i) \\ &+ \text{Other Revenue (OR)}(a_i) \\ &- \text{Direct Expense (DE)}(a_i) \\ &- \text{Indirect Expense (IE)}(a_i) \\ &- \text{Risk Provision (RP)}(a_i) \end{aligned}$$

for an account a_i , and

(c) performing one or more earnings calculations in the computer using results from the profitability calculations, as well as shareholder value add attributes and tax adjustment attributes accessed from the database, wherein the earnings calculations comprise:

$$E(a_i) = [\text{Profit}(a_i) - \text{SVA}(a_i)] * (1 - \text{EffectiveTaxRate})$$

wherein:

$\text{EffectiveTaxRate} = (1 - \text{tax rate}_2) * (\text{tax rate}_1) + \text{tax rate}_2$, tax rate_1 and tax rate_2 are effective rates, tax rate_2 is deducted from income, and tax rate_1 is not deducted from income,

$$\text{SVA}(a_i) = \text{Risk Adjusted Hurdle Rate} * \text{Allocated Capital},$$

$$\text{Risk Adjusted Hurdle Rate} = \alpha + \beta(a_i) * x,$$

α is a risk free rate on capital,

x is a market premium of a Financial Institution's capital relative to the market, and

$\beta(a_i)$ is a function of a cohort of accounts in which a_i is a member.

6. (ORIGINAL) The article of manufacture of claim 5, further comprising performing one or more total earnings calculations in the computer using results from the earnings calculations, wherein the total earnings calculations comprise:

$$\text{Total Earnings} = \sum_i [\text{Earnings}(a_i)]$$

for all accounts a_i .

EVIDENCE APPENDIX

There is no evidence being relied upon by Appellant in the appeal.

RELATED PROCEEDINGS APPENDIX

No decisions have been rendered by a court or the Board in any proceeding identified pursuant to paragraph 37 C.F.R. 41.37(c)(1)(ii).